

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DAVID E. KAPLAN, et al.,

Plaintiffs,

- against -

S.A.C. CAPITAL ADVISORS, L.P., et al.,

Defendants.

No. 12 Civ. 9350 (VM)
(KNF)

This Document Relates to:

BIRMINGHAM RETIREMENT AND RELIEF
SYSTEM, Individually and on Behalf of All Others
Similarly Situated,

Plaintiff,

- against -

S.A.C. CAPITAL ADVISORS, LLC, et al.,

Defendants.

No. 13 Civ. 2459 (VM)
(KNF)

Oral Argument Requested

**DECLARATION OF AUDRA J. SOLOWAY IN SUPPORT OF
THE SAC DEFENDANTS' SUBMISSION CONCERNING
MOTION FOR APPOINTMENT OF LEAD PLAINTIFFS
IN THE BIRMINGHAM CASE**

I, AUDRA J. SOLOWAY, hereby declare as follows:

1. I am a partner at Paul, Weiss, Rifkind, Wharton & Garrison LLP, attorneys for CR Intrinsic Investors, LLC, CR Intrinsic Investments, LLC, S.A.C. Capital Advisors, LLC, S.A.C. Capital Associates, LLC, S.A.C. International Equities, LLC, S.A.C. Select Fund, LLC and Steven A. Cohen (together, the "SAC Defendants"). This

declaration is submitted in support of the SAC Defendants' Submission Concerning the Motion for Appointment of Lead Plaintiffs in the Birmingham Case (the "Submission").

2. Attached hereto as Exhibit 1 is a true and correct copy of the Plaintiff's Certification Pursuant to Federal Securities Laws filed in *Barnicle v. Mellanox Techs.*, 13-cv-925 (S.D.N.Y. 2013), ECF No. 26-1, which was filed as an exhibit to the Declaration of Samuel H. Rudman in Support of Motion for Consolidation, Appointment as Lead Plaintiff and Approval of Lead Plaintiff's Selection of Counsel.

3. Attached hereto as Exhibit 2 is a true and correct copy of the Plaintiff's Certification Pursuant to the Federal Securities Laws filed in *Bondali v. Yum! Brands, Inc.*, 13-cv-117 (C.D. Cal. 2013), ECF No. 11-1, which was filed as an exhibit to the Declaration of Mark I. Labaton in Support of Motion of the Institutional Investor Group for Consolidation of the Related Actions, Appointment as Lead Plaintiff and Approval of Selection of Counsel.

4. Attached hereto as Exhibit 3 is a true and correct copy of the Certification Pursuant to Federal Securities Laws filed in *Fla. Carpenters Reg'l Council Pension Plan v. Eaton Corp.*, 12-cv-2001 (N.D. Ohio 2012), ECF No. 16-4, which was filed as an exhibit to the Motion of KBC Asset Management NV for Appointment as Lead Plaintiff and Approval of Selection of Lead and Liaison Counsel.

5. Attached hereto as Exhibit 4 is a true and correct copy of the Plaintiff's Certification Pursuant to Federal Securities Laws filed in *Spatz v. Facebook, Inc.*, 12-cv-2662 (N.D. Cal. 2012), ECF No. 77-1, which was filed as an exhibit to the Declaration of Mark I. Labaton in Support of Motion for Consolidation, Appointment as Lead Plaintiffs, and Approval of Lead Plaintiff's Selection of Counsel.

6. Attached hereto as Exhibit 5 is a true and correct copy of the Plaintiff's Certification Pursuant to Federal Securities Laws filed in *City of Westland Police & Fire Ret. Sys. v. SAIC, Inc.*, 12-cv-1353 (S.D.N.Y. 2012), ECF No. 10-2, which was filed as an exhibit to the Declaration of William S. Norton in Support of Motion for Appointment as Lead Plaintiff and Approval of Lead Plaintiff's Selection of Counsel.

7. Attached hereto as Exhibit 6 is a true and correct copy of the Plaintiff's Certification Pursuant to Federal Securities Laws filed in *Ross v. Career Educ. Corp.*, 12-cv-276 (N.D. Ill. 2012), ECF No. 17-1, which was filed as an exhibit to the Declaration of James M. Hughes in Support of the Motion of the Institutional Investor Group for Appointment as Lead Plaintiff and Approval of Lead and Liaison Counsel.

8. Attached hereto as Exhibit 7 is a true and correct copy of the Plaintiff's Certification Pursuant to Federal Securities Laws filed in *City of Sterling Heights Gen. Emps. ' Ret. Sys. v. Hospira, Inc.*, 11-cv-8332 (N.D. Ill. 2011), ECF No. 19-2, which was filed as an exhibit to the Declaration of James M. Hughes in Support of the Motion of the Institutional Investor Group for Consolidation, Appointment as Lead Plaintiff, and Approval of its Selection of Counsel.

9. Attached hereto as Exhibit 8 is a true and correct copy of the Certification of Named Plaintiff Pursuant to Federal Securities Laws filed in *Ansfield v. Omnicare, Inc.*, 11-cv-173 (E.D. Ky. 2011), ECF No. 24-5, which was filed as an exhibit to the Motion of KBC Asset Management N.V. for Appointment as Lead Plaintiff and Approval of Selection of Lead and Local Counsel.

10. Attached hereto as Exhibit 9 is a true and correct copy of the Plaintiff's Certification Pursuant to Federal Securities Laws filed in *Roth v. Royal*

Caribbean Cruises Ltd., 11-cv-22783 (S.D. Fla. 2011), ECF No. 19-1, which was filed as an exhibit to the Declaration of David P. Abel in Support of the Motion of KBC Asset Management NV for Consolidation, Appointment as Lead Plaintiff and Approval of its Selection of Counsel.

11. Attached hereto as Exhibit 10 is a true and correct copy of the Plaintiff's Certification Pursuant to Federal Securities Laws filed in *Pipefitters Local No. 636 Defined Benefit Plan v. Bank of Am. Corp.*, 11-cv-733 (S.D.N.Y. 2011), ECF No. 13, which was filed as an exhibit to the Declaration of Geoffrey C. Jarvis in Support of the Institutional Investor Group's Motion for Consolidation, Appointment as Lead Plaintiff, and for Approval of Selection of Co-Lead Counsel.

12. Attached hereto as Exhibit 11 is a true and correct copy of the Order of October 22, 2012 Approving Uncontested Motion of KBC Asset Management NV for Appointment as Lead Plaintiff and Approval of Selection of Lead and Liaison Counsel in *Fla. Carpenters Reg'l Council Pension Plan v. Eaton Corp.*, 12-cv-2001 (N.D. Ohio 2012), ECF No. 27.

13. Attached hereto as Exhibit 12 is a true and correct copy of a Memorandum Opinion and Order of April 18, 2012 granting the amended motion of the Combined Institutional Investor Group to serve as Lead Plaintiff in *City of Sterling Heights Gen. Emps.' Ret. Sys. v. Hospira, Inc.*, 11-cv-8332 (N.D. Ill. 2011), available at 2012 WL 1339678.

14. Attached hereto as Exhibit 13 is a true and correct copy of the Order of March 24, 2012 Appointing Lead Plaintiff and Approving Lead Plaintiff's

Selection of Counsel in *Ross v. Career Educ. Corp.*, 12-cv-276 (N.D. Ill. 2012), ECF No. 30.

15. Attached hereto as Exhibit 14 is a true and correct copy of a Memorandum Order of March 12, 2012 appointing KBC Asset Management N.V. as lead plaintiff and approving its selection of lead and local counsel in *Ansfield v. Omnicare, Inc.*, 11-cv-173 (E.D. Ky. 2011), ECF No. 86.

16. Attached hereto as Exhibit 15 is a true and correct copy of the Order of January 4, 2012 on Appointment of Lead Plaintiff Approval of Selection of Lead Counsel and Scheduling in *In re Royal Caribbean Securities Litig.*, 11-cv-22855 (S.D. Fla. 2011), ECF No. 45.

17. Attached hereto as Exhibit 16 is a true and correct copy of the Birmingham Retirement and Relief System's Certification Pursuant to the Federal Securities Laws filed in the above-captioned action on September 20, 2013 as an exhibit to the Declaration of Joseph P. Guglielmo, Esq. in Support of the Institutional Investor Group's Motion for Appointment as Lead Plaintiff and for Approval of its Selection of Lead Counsel. (ECF No. 108-2 at 1-2.)

18. Attached hereto as Exhibit 17 is a true and correct copy of KBC Asset Management NV's Certification Pursuant to Federal Securities Laws filed in the above-captioned action on September 20, 2013 as an exhibit to the Declaration of Joseph P. Guglielmo, Esq. in Support of the Institutional Investor Group's Motion for Appointment as Lead Plaintiff and for Approval of its Selection of Lead Counsel. (ECF No. 108-2 at 3-7.)

19. Attached hereto as Exhibit 18 is a true and correct copy of the Institutional Investor Group's Loss Charts filed in the above-captioned action on September 20, 2013 as an exhibit to the Declaration of Joseph P. Guglielmo, Esq. in Support of the Institutional Investor Group's Motion for Appointment as Lead Plaintiff and for Approval of its Selection of Lead Counsel. (ECF No. 108-3 at 1-2.)

20. Attached hereto as Exhibit 19 is a true and correct copy of the Plaintiff's Certification Pursuant to Federal Securities Laws filed in *City of Sterling Heights General Employees' Retirement Sys. v. Hospira, Inc.*, 11-cv-8332 (N.D. Ill. 2011), ECF No. 19-2, which was filed as an exhibit to the Declaration of James M. Hughes in Support of the Motion of the Institutional Investor Group for Consolidation, Appointment as Lead Plaintiff, and Approval of its Selection of Counsel.

21. Attached hereto as Exhibit 20 is a true and correct copy of the Plaintiff's Certification Pursuant to Federal Securities Laws filed in *Bennett v. Sprint Nextel Corp.*, 09-cv-2122 (D. Kan. 2009), ECF No. 117-2, which was filed as an exhibit to the Declaration of Maria Wieck on Behalf of Pace Industries Union-Management Pension Fund in Support of Lead Plaintiffs' Motion for Class Certification.

22. Attached hereto as Exhibit 21 is a true and correct copy of the Plaintiff's Certification Pursuant to Federal Securities Laws filed in *City of Brockton Ret. Sys. v. Avon Prods., Inc.*, 11-cv-4665 (S.D.N.Y. 2011), ECF No. 9-1 (at 2-3), which was filed as an exhibit to the Declaration of William S. Norton in Support of the Motion of LBBW Asset Management Investmentgesellschaft MBH and SGSS Deutschland Kapitalanlagegesellschaft MBG for Appointment as Lead Plaintiffs and Approval of Their Selection of Counsel.

23. Attached hereto as Exhibit 22 is a true and correct copy of the Plaintiff's Certification Pursuant to Federal Securities Laws filed in *City of Brockton Ret. Sys. v. Avon Prods., Inc.*, 11-cv-4665 (S.D.N.Y. 2011), ECF No. 9-1 (at 5-6), which was filed as an exhibit to the Declaration of William S. Norton in Support of the Motion of LBBW Asset Management Investmentgesellschaft MBH and SGSS Deutschland Kapitalanlagegesellschaft MBG for Appointment as Lead Plaintiffs and Approval of Their Selection of Counsel.

24. Attached hereto as Exhibit 23 is a true and correct copy of the Plaintiff's Certification Pursuant to Federal Securities Laws filed in *Hill v. State Street Corp.*, 09-cv-12146 (N.D. Ill. 2009), ECF No. 5-2, which was filed as an exhibit to the Declaration of Gerald H. Silk in Support of the Public Employees' Retirement Sys. of Mississippi's and Union Asset Management Holding AG's Motion for Appointment as Lead Plaintiff, Approval of their Selection of Lead Counsel, and Consolidation of all Related Actions.

25. Attached hereto as Exhibit 24 is a true and correct copy of the Plaintiff's Certification Pursuant to Federal Securities Laws filed in *City of Pompano Beach Gen. Emps.' Ret. Sys. v. Synovus Fin. Corp.*, 09-cv-1811 (N.D. Ga. 2009), ECF No. 16-3, which was filed as an exhibit to the Motion of the Sheet Metal Workers' Nat'l Pension Fund for Appointment as Lead Plaintiff and Approval of Selection of Counsel.

26. Attached hereto as Exhibit 25 is a true and correct copy of the Plaintiff's Certification Pursuant to Federal Securities Laws filed in *Minneapolis Firefighters' Relief Assoc. v. Medtronic, Inc.*, 08-cv-6324 (D. Minn. 2008), ECF No. 23-1, which was filed as an exhibit to the Declaration of Geoffrey C. Jarvis in Support of the

Institutional Investor Group's Motion for Appointment as Lead Plaintiffs and for Approval of its Selection of Counsel.

27. Attached hereto as Exhibit 26 is a true and correct copy of the Plaintiff's Certification Pursuant to Federal Securities Laws filed in *Cornwell v. Credit Suisse Grp.*, 08-cv-3758 (S.D.N.Y. 2008), ECF No. 13, which was filed as part of the Amended Complaint for Violation of the Federal Securities Laws.

28. Attached hereto as Exhibit 27 is a true and correct copy of the Plaintiff's Certification Pursuant to Federal Securities Laws filed in *Wesner v. UBS AG*, 07-cv-11225 (S.D.N.Y. 2007), ECF No. 15-2 (at 6-7), which was filed as an exhibit to the Declaration of Sharan Nirmul in Support of the Motion of Institutional Investor Group for Consolidation, Appointment as Lead Plaintiff, and Approval of its Selection of Counsel.

29. Attached hereto as Exhibit 28 is a true and correct copy of the Plaintiff's Certification Pursuant to Federal Securities Laws filed in *Wesner v. UBS AG*, 07-cv-11225 (S.D.N.Y. 2007), ECF No. 15-2 (at 22-23), which was filed as an exhibit to the Declaration of Sharan Nirmul in Support of the Motion of Institutional Investor Group for Consolidation, Appointment as Lead Plaintiff, and Approval of its Selection of Counsel.

30. Attached hereto as Exhibit 29 is a true and correct copy of the Plaintiff's Certification Pursuant to Federal Securities Laws filed in *Wesner v. UBS AG*, 07-cv-11225 (S.D.N.Y. 2007), ECF No. 15-2 (at 30), which was filed as an exhibit to the Declaration of Sharan Nirmul in Support of the Motion of Institutional Investor Group

for Consolidation, Appointment as Lead Plaintiff, and Approval of its Selection of Counsel.

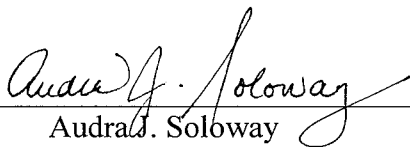
31. Attached hereto as Exhibit 30 is a true and correct copy of the Plaintiff's Certification Pursuant to Federal Securities Laws filed in *Abrams v. Dell, Inc.*, 06-cv-726 (W.D. Tex. 2006), ECF No. 41-1, which was filed as an exhibit to the Declaration of Don L. Davis in Support of the Motion of Union Asset Management Holding AG for Consolidation, Appointment as Lead Plaintiff, and Approval of its Selection of Counsel.

32. Attached hereto as Exhibit 31 is a true and correct copy of the Plaintiff's Certification Pursuant to Federal Securities Laws filed in *Roffee v. NPS Pharm., Inc.*, 06-cv-570 (D. Utah 2006), ECF No. 25-2, which was filed as an exhibit to the Declaration of Richard D. Burbidge in Support of the Motion of Pharma/wHealth Management Co. S.A. to Be Appointed Lead Plaintiff and for Approval of Lead Plaintiff's Selection of Counsel.

33. Attached hereto as Exhibit 32 is a true and correct copy of an excerpt of the Firm Résumé of Motley Rice, which was filed in the above-captioned action on September 20, 2013 as an exhibit to the Declaration of Joseph P. Guglielmo, Esq. in Support of the Institutional Investor Group's Motion for Appointment as Lead Plaintiff and for Approval of its Selection of Lead Counsel. (ECF No. 108-5.)

34. In accordance with 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
September 27, 2013


Audra J. Soloway